

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 151

[CGD 95-901]

RIN 2115-AF08

## Noxious Liquid Substances Lists

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is amending its Noxious Liquid Substances (NLSs) regulations to include substances recently authorized for carriage by the Coast Guard or added to the International Maritime Organization's (IMO) Chemical Codes and by making minor technical and editorial changes and corrections. This action also updates the current lists of oil-like and non-oil-like NLSs allowed for carriage.

**EFFECTIVE DATE:** This rule is effective on June 29, 1995.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 95-901), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Curtis G. Payne, Hazardous Materials Branch, (202) 267-1577.

**SUPPLEMENTARY INFORMATION:****Drafting Information**

The principal persons involved in drafting this document are Mr. Curtis G. Payne, Project Manager, and Ms. Helen G. Boutrous, Project Counsel, Office of Chief Counsel.

**Related Rulemaking**

Elsewhere in this edition of the **Federal Register**, the Coast Guard is publishing a final rule concerning bulk hazardous materials tables in 46 CFR parts 30, 150, 151, and 153 (CGD 95-900) and a final rule (CGD 94-902) concerning cargo entries the Coast Guard has reason to believe are obsolete.

**Regulatory Information**

Because the United States is a party to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the protocol of 1978 relating thereto (MARPOL 73/78), these amendments are required to ensure that the Coast Guard regulations

are consistent with revisions to IMO's chemical codes. Accordingly, the Coast Guard finds that good cause exists under 5 U.S.C. 553(b) and 553(d)(3) to publish this rule without opportunity for comment, effective upon publication in the **Federal Register**.

**Background and Purpose**

The Coast Guard is revising its lists of Category D NLSs by including in these lists new entries added to table 30.25-1 of 46 CFR part 30 and tables 1 and 2 of 46 CFR part 153 by a separate rulemaking appearing elsewhere in this edition of the **Federal Register** (CGD 95-900). These are chemicals recently authorized or added to the IMO's Chemical Codes ("International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk" (IBC Code), and "Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk" (BCH Code)). This rulemaking merely updates Coast Guard chemical lists in 33 CFR part 151 and makes a non-substantive editorial change.

**Discussion of Amendments**

The new entries to be added to § 151.47 are—

- (a) 2-Ethyl-2-(hydroxymethyl)propane-1,3-diol, C8-C10 ester;
- (b) Glycerol monooleate;
- (c) Lecithin (*soyabean*);
- (d) Polybutenyl succinimide; and
- (e) Zinc alkenyl carboxamide.

This action also updates the current lists of oil-like and non-oil-like NLSs in § 151.49(a) by deleting the entry "Dipentene", and adding the entry "Heptane (all isomers)" to follow the entry "Ethylcyclohexane". The non-substantive editorial change would substitute Roman type for bold faced type where it appears in the list in § 151.47.

**Regulatory Evaluation**

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This rulemaking would merely update NLS lists by adding cargoes to the Coast Guard lists and by making a non-substantive editorial change. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph

10e of the regulatory policies and procedures of DOT is unnecessary.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant to their fields and (2) governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore is exempt from the requirements of the Act. Although this rule is exempt, the Coast Guard has reviewed it for potential impact on small entities.

This rulemaking would merely update NLS lists by adding cargoes recently authorized by the Coast Guard or added to the IMO Chemical Codes and by making a non-substantive editorial change. Because it expects the impact of this final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Because this rulemaking would merely update current lists in Coast Guard regulations, there are no Federalism implications.

**Environment**

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. This rulemaking is an update of current lists to add chemicals already approved under Coast Guard regulation or international law and clearly would have no impact on the environment. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 151**

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 151 as follows:

**PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE AND MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER**

1. The authority citation for part 151, subpart A, continues to read as follows:

**Authority:** 33 U.S.C. 1321(j)(1)(C) and 1903(b); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

**§ 151.47 [Amended]**

2. In § 151.47, remove all boldfaced type wherever it may appear and add, in its place, Roman type.

3. In § 151.47, add the following new entries in chemically proper alphabetized order:

\* \* \* \* \*

2-Ethyl-2-(hydroxymethyl)propane-1,3-diol, C8-C10 ester  
Glycerol monooleate  
Lecithin (*soyabean*)  
Polybutenyl succinimide  
Zinc alkenyl carboxamide  
\* \* \* \* \*

**§ 151.49 [Amended]**

4. In § 151.49(a), remove the entry “Dipentene”, and add the entry “Heptane (all isomers)” to follow the entry “Ethylcyclohexane”.

Dated: June 15, 1995.

**J. C. Card,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.*

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**46 CFR Parts 30, 150, 151, and 153**

**[CGD 94–902]**

**RIN 2115–AF06**

**Obsolete Bulk Hazardous Materials**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending its regulations on carriage of bulk hazardous materials by deleting commodities from its regulations that are no longer viable as bulk liquid cargoes, and cancelling the classifications of obsolete commodities not included in those regulations. This

action will help to ensure that Coast Guard requirements are current and that the hazardous materials tables and lists are free of entries that unnecessarily complicate the Coast Guard's regulations.

**EFFECTIVE DATE:** This rule is effective on August 28, 1995.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–900), U.S. Coast Guard Headquarters, 2100 Second Street, NW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Curtis G. Payne, Hazardous Materials Branch, (202) 267–1577.

**SUPPLEMENTARY INFORMATION:**

**Drafting Information**

The principal persons involved in drafting this document are Mr. Curtis G. Payne, Project Manager, and Ms. Helen G. Boutrous, Project Counsel, Office of Chief Counsel.

**Regulatory History**

On August 31, 1994, the Coast Guard published an advanced notice of proposed rulemaking (ANPRM) entitled *Obsolete Bulk Hazardous Materials in the Federal Register* (59 FR 45150). The Coast Guard received four letters commenting on the proposal. A public hearing was not requested and one was not held.

**Related Rulemakings**

Elsewhere in this edition of the **Federal Register**, the Coast Guard is publishing amendments to its noxious liquid substances list in 33 CFR 151.47 (CGD 95–901) and its bulk hazardous materials lists and tables in 46 CFR parts 30, 150, 151, and 153 (CGD 95–900).

**Regulatory Information**

This rule removes obsolete commodities from Coast Guard regulations that are no longer viable as bulk liquid cargoes, and cancels the classifications of obsolete commodities not included in those regulations. This action will help to ensure that Coast Guard requirements are current and that the hazardous materials tables and lists are free of entries that unnecessarily complicate the Coast Guard's regulations. Because these commodities are no longer carried in bulk, this action will have no impact on the regulated

industry. This action merely serves to remove needless entries from the Coast Guard's lists and tables. Further, the public was provided an opportunity to comment on this action in the ANPRM published on August 31, 1994. In the ANPRM, the Coast Guard proposed commodities for deletion, and asked whether anyone had information on these commodities, or any other commodities that might be appropriate for deletion as well. Four comments were received and are addressed in this rulemaking. Accordingly, the Coast Guard finds that good cause exists under 5 U.S.C. 553(b) to publish this rule without additional opportunity for comment.

**Background and Purpose**

The Coast Guard has identified obsolete cargo entries in its various tables and lists, as well as obsolete cargo classifications for entries never entered in those tables and lists. Upon review of the comments received in response to the ANPRM, and further review of its own records, the Coast Guard is deleting these obsolete entries and classifications as appropriate. By deleting obsolete entries in its tables and lists, and cancelling the classification of obsolete commodities, the Coast Guard will reduce an internal administrative burden on its regulatory record keeping and ensure that its requirements reflect current needs. In the ANPRM, the Coast Guard provided a list of commodities thought to be obsolete. That list has been further reviewed by the Coast Guard and four letters commenting on the list were received, as discussed below.

**Discussion of Comments and Changes**

*Coast Guard Review*

Further review by the Coast Guard revealed that two of the entries included in the list of obsolete commodities in the ANPRM were identified incorrectly. They are:

a. “Nitrilotriacetic acid, sodium salt solution” which should have read “Nitrilotriacetic acid, trisodium salt solution”; and

b. “Sodium sulfide solution” which should have read “Sodium sulfide solution (15% or less)”.

These commodities are removed by this final rule.

*Comments Received*

a. Two comments noted that the commodity ethylidene norbornene is produced in large quantity. Neither comment was able to verify whether this commodity is moved in bulk on water. Having obtained information that the